

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DRYWALL TAPERS AND POINTERS OF GREATER  
NEW YORK LOCAL UNION 1974, IUPAT, AFL-CIO,

Plaintiff,

ECF CASE

-against-

**PLAINTIFF'S/PETITIONER'S  
LOCAL RULE 56.1  
STATEMENT**

TOP ROCK INTERIORS, INC.,

Index No.: 18 Civ. 07557 (VSB)

Defendant.  
-----X

Pursuant to Rule 56.1 of the Civil Rules of this Court, Drywall Tapers and Pointers of Greater New York Local Union 1974, IUPAT, AFL-CIO (the "Union"), respectfully submits this statement of material facts as to which there is no genuine issue to be tried with respect to Plaintiff's/Petitioner's motion for summary judgment on its Complaint/Petition to Confirm Arbitration Award, rendered pursuant to a collective bargaining agreement ("CBA") between the Union and Top Rock Interiors, Inc., under Section 301 of the Labor-Management Relations Act ("LMRA"), 29 U.S.C. Section 185. *See* Affirmation of Lauren M. Kugielska, Esq. in Support of Plaintiff's/Petitioner's Motion for Summary Judgment, dated November 1, 2018 ("Kugielska Aff."), Exhibit "A," (Complaint/Petition – ECF No. 1).

**The Parties**

1. The Union, with offices located at 45 West 14<sup>th</sup> Street, New York, NY 10011, is a labor organization within the meaning of Section 301 of the Taft-Hartley Act (29 U.S.C. Section 185) which represents employees in an industry affecting commerce as defined in Section 501 of

the Taft-Hartley Act (29 U.S.C. Section 142), and Section 3(4) of ERISA (29 U.S.C. Section 1002(4)), and as further defined in Section 12 of the General Associations Law of the State of New York. Kugielska Aff., Exhibit “A,” at ¶¶ 5-6 (Complaint/Petition – ECF No. 1).

2. Top Rock Interiors, Inc. (“Top Rock”) is upon information and belief, a corporation duly organized and existing under the laws of New York State with its principal office and place of business located at 470 7th Avenue, Suite 402, New York, NY 10018. Kugielska Aff., Exhibit “A,” at ¶ 7 (Complaint/Petition – ECF No. 1).

### **THE ARBITRATION**

3. Top Rock was bound at all relevant times by its CBA with the Union, and provides for the submission of disputes to final, binding decisions of the Union’s Joint Trade Board. Kugielska Aff., Exhibit “B,” Article XIV Section 6 & Exhibit “A,” ¶ 9 (Complaint/Petition – ECF No. 1).

4. A dispute arose when Top Rock failed to register a job with the Union in accordance with the CBA on October 23, 2017. Declaration of John Drew in Support of Plaintiff’s/Petitioner’s Motion for Summary Judgment, dated November 6, 2018 (“Drew Decl.”), ¶ 4, Kugielska Aff., Exhibit “A,” ¶ 11 (Complaint/Petition – ECF No. 1).

5. Pursuant to Article XIV of the CBA, the Union filed a Demand for Arbitration with the Union’s Joint Trade Board (the “JTB”) and submitted a Notice of Intention to Arbitrate to the Employer. Drew Decl., ¶ 4, Kugielska Aff., Exhibit “A,” ¶¶ 12-13 (Complaint/Petition – ECF No. 1). The JTB held a hearing on April 20, 2018 and rendered a written award thereafter. Drew Decl., ¶ 5-6, Kugielska Aff., Exhibit “A,” ¶¶ 14-15 (Complaint/Petition – ECF No. 1).

6. The JTB found that Top Rock violated the CBA by failing to register a job with the

Union on October 23, 2017. Drew Decl., ¶ 6, Kugielska Aff., Exhibit “A,” ¶ 16 (Complaint/Petition – ECF No. 1).

7. The Award directs Top Rock to pay \$2,000.00 for failing to register a job with the Union on October 23, 2017. Kugielska Aff., Exhibit “A,” ¶ 17 (Complaint/Petition – ECF No. 1).

8. A copy of the Award was delivered to Top Rock following the April 20, 2018 hearing. Drew Decl., ¶ 6.

9. Top Rock has failed to comply with the terms of the Award. Drew Decl., ¶ 7, Kugielska Aff., Exhibit “A,” ¶ 18 (Complaint/Petition – ECF No. 1).

10. Top Rock has not commenced an action seeking to vacate or modify the Award.

Dated: Elmsford, New York  
November 7, 2018

Respectfully submitted,  
/s/ Lauren M. Kugielska  
*Attorneys for Plaintiff/Petitioner*  
Barnes, Iaccarino & Shepherd LLP  
258 Saw Mill River Road  
Elmsford, New York 10523  
Phone: (914) 592-1515  
Fax: (914) 592-3213  
lkugielska@bislawfirm.com